HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1539 (M/S) of 2005

With

Stay Application No. 12611/05

Sheeshu Shiksha Samiti Pachhami
Uttar Pradesh, Nehru Nagar,
Ghaziabad through its Secretary. .....Petitioner

Vs.

1. Civil Judge (Sr. Div.) Haridwar,
   District- Haridwar
2. Tularam Mittal Chariatable Trust,
   R/o 65/62/1, Chameliyan Road,
   Delhi-110006 through Chief Trustee
   Above.
3. Gyan Chand Gupta,
   R/o K-62, South City-1 Gudgaon,
   Pin code No. 122001(Hariyana).
4. Chandrabhan Gupta,
   R/o 54/38, Basti Harphool Singh,
   Sadar Bazar, Delhi, Pin Code No. 110006.
5. Navneet Mohan Mittal,
   R/o U-23/24, Pick Tower House
   D.L.F.-111, Gudgaon(Haryana).
6. Anurag Mittal,
   R/o 54/38, Basti Harphool Singh
   Sadar Bazar, Delhi Pin Code No. 110006.
7. Arvind Mohan Mittal,
   R/o K-62, south City-1 Gudgaon,
   All trustee of Tularam Mittal
   Charitable Trust .....Respondents.

Sri Lok Pal Singh learned counsel for the petitioner.
Mrs. Seema Serohi learned brief holder for the State.

Dated:- 25-02-2006

Hon'ble B.S.Verma, J.

Heard Sri Lok Pal Singh learned counsel for the petitioner and Mrs. Seema Serohi learned brief holder for the State.

Petitioner has field the present writ petition for quashing the impugned order dated 3-12-2005, contained Annexure No. 8, passed by the learned Trial Court by which the amendment

application 105A-1 has been allowed by the 2nd Additional Civil Judge (J.D.) Haridwar.

Mrs. Seema Serohi learned brief holder has stated that plaintiff has amended paragraph 14 regarding valuation of the property in suit on the basis of the annual assessment regarding the property described in scheduled B.

It has been submitted by the learned counsel for the petitioner Sri Lok Pal Singh that an issue was farmed regarding under valuation of suit property and Court Amin has already submitted the report of valuation of the property in dispute. A direction be given to the learned 2nd Additional Civil Judge (J.D.) while deciding the valuation issue on the basis of the Amin report dated 30-11-2004 shall also be considered.

The petitioner/defendant may raise this argument before the 2nd Additional Civil Judge (J.D). The preliminary issue regarding the valuation of the suit yet to be decided by the trial court. The Civil Judge (J.D.), Haridwar would be at liberty to take decision while deciding the valuation issue whether the valuation report of Amin will be the basis of valuation i.e. marked value or the suit be valued on the basis of annual assessment after hearing the argument of both the parties.

The proposed amendment is a legal in nature and the issue of valuation yet to be decided by the leanred Trial Court. There is no perversity in the order impunged passed by the 2nd Additional Civil Judge (J.D.) Haridwar in allowing the amendment application of the plaintiff.

Petition is liable to be dismissed being legal in nature.

With the above observation the writ petition is dismissed in limine.

(B.S.Verma, J.)

Dated: 25-2-2006
M.K.